HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND

HON'BLE SRI JUSTICE G. V. SEETHAPATHY

Writ Petition No.12143 of 2006

Between:

MAaganti Sudhakar … Petitioner

And

Guntur Municipal Corporation,
Rep. by its Commissioner and others.

… Respondents

:: ORDER::

Counsel for the Petitioner: Sri T.S. Venkata Ramana

Counsel for Respondent No.1: None

Counsel for Respondent No.2: Government Pleader for Municipal Administration

Counsel for Respondent No.3: None

22nd June, 2006

Per G.S.SINGHVI, CJ

In this petition filed in the name of public interest, the petitioner Shri Maganti Sudhakar has prayed for quashing

G.O.Rt.No.631 M.A., dated 07.04.2000 issued by the Government of Andhra Pradesh in the Department of Municipal Administration and Urban Development and consequential resolution No.169 dated 20.05.2006 passed by Guntur Municipal Corporation (for short 'the Corporation'). He has further prayed for restraining the Government from alienating the reserved open site measuring 8345 sq. yards in L.P.No.44/71, Guntur in favour of Shri Venkateswara Bala Kuteer, Shyamala Nagar, Guntur (respondent No.3).

In paragraph 3 of his affidavit, the petitioner has averred that State Government Gazetted Officers Co-operative Building Society, Guntur gifted reserved site measuring 8345 sq. yards in L.P.No.44/71 for laying a public park. However, vide resolution dated 29.05.1974, the Corporation recommended leasing out of the site in favour of respondent No.3 for a period of twenty five years. The State Government approved that resolution vide G.O.Ms.No.437 dated 21.08.1974 and respondent No.3 was granted lease at the rate of Rs.50/- per acre. After taking the land on lease, respondent No.3 constructed school buildings and play ground. In 1999, respondent No.3 applied for extension of lease by another twenty five years. The Corporation vide resolution No.57 dated 02.11.1999, recommended for extension of lease by charging enhanced amount. A communication to that effect was sent to the State Government, which issued G.O.Rt.No.631 MA dated 04.07.2000 for extension of lease in favour of respondent No.3. The petitioner has further averred that vide resolution No. 98 B dated 08.05.2006, the Corporation decided to cancel the lease, but the local M.L.A. brought his influence and got that resolution superseded by another resolution No.169 dated

20.05.2006. As a sequel to this, recommendations have been made to the State Government to alienate the property in favour of respondent No.3.

Learned counsel for the petitioner argued that even though there is some delay in filing the writ petition, the Court should quash G.O.Rt.No.631 M.A. dated 07.04.2000 and resolution dated 20.05.2006 because alienation of the property in favour of respondent No.3 is contrary to the law laid down by this Court in **State Motor Transport Operators Association v. Commissioner of Transport, Government of Andhra Pradesh, Hyderabad**[1], **Cooperative Housing Society Limited, Saleemnagar v. Municipal Corporation of Hyderabad**[2] and **China Waltair Colony House Owners Welfare Association v. Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam District**[3].

We have given serious thought to the arguments of the learned counsel, but have not felt persuaded to accept the same. In our opinion, the writ petition is liable to be dismissed because the petitioner has not approached the Court with clean hands. In the cause title, the petitioner has described himself as Corporator. If the petitioner's claim of being a public representative is treated as correct, it is difficult to comprehend as to why he maintained silence for more than three decades before seeking intervention of the Court. Admittedly, the land was initially leased out to respondent No.3 some time in 1974. It is also not in dispute that after taking possession of the land on lease, respondent No.3 constructed school building and developed a portion of the land as play ground. The petitioner will be deemed to be aware of all these

developments, but he did not bother to question the same for three decades. It is also not possible to comprehend as to why the petitioner did not challenge the order in G.O.Rt.No.631 M.A. dated 04.07.2000 issued by the Government in Municipal Administration Department sanctioning extension of lease period in respect of the land in question. The latest resolution passed by the Corporation and the decision taken by the State Government are the necessary concomitant of the lease granted to respondent No.3 in 1974 which, as mentioned above, was followed by permission to construct school building and develop the play ground. In our considered view, the petitioner's silence for a period of more than 30 years from the date of initial grant of lease to respondent No.3 and for a period of more than six years counted from the date of extension of lease militates against his bona fides as a person, who has moved the Court

pro bono publico and the writ petition is liable to be dismissed on that ground. Ordered accordingly.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

22.06.2006

ars/ksld/svs

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[1] 2001(4) ALD 434 (DB)

[2] 2001(5) ALD 663

[3] 2002 Suppl. (1) ALD 258 (DB)